

## REMARKS

In the Office Action dated April 19, 2002, the Examiner rejected all claims under 35 U.S.C. §§ 102 and 103 based on Fumero, Duer and Tabler.

As an initial matter, Applicant objects to the rejection being made final. The Examiner previously indicated the subject matter of claims 8 and 9 to be allowable over the art. On that basis, Applicant amended claim 8 to place the claim in independent form. Without explanation, the Examiner has now entered an art-based rejection. Applicant submits that the final nature of the rejection should be withdrawn to provide Applicant with an opportunity to provide an appropriate response or amendment.

With respect to claim 1, Applicant submits the claim is in condition for allowance. Neither Fumero, nor Duer teach a housing with an opening at one end as set forth in the claim through which an insert formed of steel plate is inserted. In Fumero it would be impossible to insert the insert (20) through the open in the top of the housing. Duer does not teach an insert made of steel plates. While the Examiner suggested in the last office action that it would be obvious to replace the mesh basket of Duer with a steel plate insert, this misses the entire point of Duer. The express object of Duer is to remove bullets a reusable condition. To this end, Duer teaches the use of "a basket incorporating open mesh screen which enables removal of bullets from the trap without requiring removal of the filler material therefrom." See Abstract. Replacing Duer's basket with a steel plate insert would have the opposite effect. Removing the insert from the house would remove the filler material. Thus, Duer clearly teaches away from the claimed invention.

Claim 3 has been recast in independent form. The Examiner rejected claim 3 as being unpatentable over Fumero. The Examiner, however, has failed to show a top which removably engages the remainder of the insert as set forth in the claim and has failed to identify any teaching in the prior art which teaches use of such a top. Therefore, claim 3 should be allowed.

With respect to the rejections of claims 2-6, 11 and 16, Applicant again objects to the Examiner's assertion that the ballistic duct portions of Fumero can be considered part of the insert. It is clear from Fumero that such structures are not considered to be an insert or considered to be removable. Furthermore, the Examiner is not taking a consistent view of the art. On the one hand, he asserts that the ballistic ducts are part of the insert. On the other hand, he rejects claim 14 which requires that the insert be a continuous. Throughout the Office Action, the Examiner interprets structures differently depending on the language of an individual claim. Applicant submits that this is improper and the basis for overturning the Examiner's position on appeal.

Claim 6 has also been cast in independent form. Fumero does not teach the use of a top plate on the insert 20, and none of the art cited by the Examiner suggests modifying Fumero in such a manner. In fact, in Fumero, there is no reason to have a top plate due to its configuration.

Claim 8 is also allowable. In addition to Applicant's objection to the Examiner rejecting a claim which he previously indicated to be allowable in a final office action. Applicant objects to the Examiner's repeated extrapolations in an attempt to reject the claim. First, the art does not support the Examiner's conjecture that the plates are attached by rivets. It is common in the industry to weld plate steel because it is extremely difficult to drill. Second, even if a rivet were

used, rivets usually are placed in holes, not slots. Third, it is unlikely that the bottom wall 40 would have a slots formed therein, both due to the structure of the adjacent walls (which are perpendicular, and because wall 40 and associated structures are held in place by the cap 54, which attaches by pins 58.

With respect to claim 9, there is no teaching regarding slots, let alone whether the slots overlap or not.

With respect to claim 14, Applicant submits that the claim is allowable over the prior art. from one end to the other. Both Fumero and Duer lack a continuous, removable bullet deceleration insert as set forth in the claim. In Duer, the bucket extends along a small fraction of the length of the housing and therefore cannot be a bullet deceleration chamber as defined in the claim. With respect to the Examiner's argument that the housing in Fumero can be considered only compartment 105, Applicant strenuously objects. Not only is this inconsistent with the Examiner's previous assertions that the ballistic ducts form part of the insert, it is inconsistent with the teachings of Fumero. It is well established that the Examiner cannot pick and chose from portions of the prior art in order to deprecate the invention. Nor can the Examiner define the prior art one way to reject one claim and a different way to reject another claim. Therefore, Applicant submits that claim 14 is allowable.

Turning now to claim 20, neither piece of prior art relied upon by the Examiner teaches sliding a bullet deceleration chamber into a housing having an open end through which a bullet travels. Duer's bucket may be an insert, but it is not a bullet deceleration chamber. Furthermore, Duer's basket is not formed from steel plates and, in light of the express teachings of Duer that

the basket is to remove bullets without removing the filler material, it would not have been obvious to replace the basket with steel plates. Furthermore, even replacing the basket with steel plates would not form a deceleration chamber.

In light of the above, Applicant submits that each claim is in condition for allowance. Should the Examiner determine that any additional adverse action is necessary, it is requested that he contact Applicant's attorney at (801) 478-0071 so that such matters may be resolved as expeditiously as possible. The Commissioner is hereby authorized to credit any overpayment or debit any amount owing in association with this file to Account No. 50-881.

Morriss, Bateman, O'Bryant & Compagni, P.C.

A handwritten signature in black ink, appearing to read "Randall B. Bateman", with a large, sweeping loop at the end.

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1. (Twice Amended) A trap for receiving bullets, the trap comprising:

a housing having a cavity defined by an outerwall surrounding a void and an opening at an upper end; and

an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing through the opening at the upper end, the insert being formed of [a bullet decelerating material] steel plates and having an opening sufficiently close to the opening in the housing for receiving a barrel of a gun.

Please cancel claim 2.

3. (Amended) [The trap for receiving bullets according to claim 2, ] A trap for receiving bullets, the trap comprising:

a housing having a cavity defined by an outerwall surrounding a void; and

an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing, the insert being formed of a plurality of pieces of steel plate and having an opening for receiving a barrel of a gun, wherein the plurality of pieces of steel plate form a bottom portion having a generally u-shaped cross-section and a top removably engaging the bottom portion such that the insert has a square cross-section when the top is attached.

6. (Amended)[The trap for receiving bullets according to claim 5,] A trap for receiving bullets, the trap comprising:

a housing having a cavity defined by an outerwall surrounding a void; and  
an insert forming a bullet deceleration chamber, the insert being slidably insertable into and removable from the void of the housing, the insert being formed of a bullet decelerating material nad having vents; and

wherein the insert is formed from a top plate, a bottom plate and a pair of sidewalls, and wherein the vents are formed between the sidewalls and at least one of the top plate and the bottom plate.

14. (Twice Amended) A clearing trap for receiving bullets fired from a gun, the clearing trap comprising:

a housing having an outerwall with an opening at one end and a void disposed within the outerwall; and

an insert disposed in the void of the housing, the insert being made of steel plates and forming a continuous, removable bullet deceleration chamber from a position adjacent the opening of the housing to an opposing end of the bullet deceleration chamber with the void [and having at least one vent formed therein].

20. (Twice Amended) A method for forming a clearing trap, the method comprising;

selecting a housing having a void configured to receive a bullet deceleration chamber and an open end through which a bullet passes;

selecting a bullet deceleration chamber formed from a plurality of steel plates; and

sliding the bullet deceleration chamber through the open end and into the void configured to receive the bullet deceleration chamber.